

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

KELLY BRUCE GOGGLEYE SR.,

Petitioner,

v.

Case No. 16-cv-2739 (JNE/TNL)
ORDER

STATE OF MINNESOTA,

Respondent.

Pursuant to 18 U.S.C. § 2254, *pro se* Petitioner Kelly Bruce Goggleye Sr. filed a petition for writ of habeas corpus challenging his October 24, 2014, conviction for first-degree criminal sexual conduct under Minnesota law. The federal magistrate judge ordered Respondent the State of Minnesota¹ to file an answer within 30 days of August 17, 2016. Dkt. No. 3. Respondent filed an answer on September 15, 2016, attaching several documents from the underlying criminal case and related proceedings. Dkt. No. 5. Respondent's attachments included copies of excerpts from transcripts of Petitioner's trial in state court and identified additional transcripts that would be available for review. *See* R. Gov'g § 2254 Cases 5(c)-(d). The matter was referred to the Honorable Tony N. Leung, United States Magistrate Judge, who issued a Report and Recommendation dated May 31, 2017, recommending the denial of the petition, its dismissal with prejudice, and a denial of a certificate of appealability.

After receiving a copy of the Report and Recommendation, Petitioner filed a letter on June 14, 2017, objecting on the following grounds: "Respondent failed to comply with [] court order dated August 17th, 2016, Document #3 I ask for dismissal of all charges and

¹ Petitioner failed to properly "name as respondent the state officer who has custody." R. Gov'g § 2254 Cases 2(a).

immediate release.” Dkt. No. 8. The Court has reviewed the record *de novo*. See D. Minn. L.R. 72.2(b)(3).

Petitioner’s sole objection that Respondent did not comply with the August 17, 2016, order at Docket No. 3 is belied by the record. Respondent timely filed its answer. Respondent also filed a certificate of service indicating that a copy of its answer was mailed to Petitioner at an address that matches the return address he has listed in his correspondence in this action. Petitioner identified no other objections to the Report and Recommendation.

The Court accepts the recommendations and reasoning of the Report and Recommendation.

Based on the files, records, and proceedings herein, and for the reasons stated above, IT IS ORDERED THAT:

1. Petitioner Kelly Bruce Goggeye Sr.’s Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody [Dkt. No. 1] is DENIED.
2. This action is DISMISSED WITH PREJUDICE.
3. A Certificate of Appealability is DENIED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: August 9, 2017

s/ Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge